

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.20344 OF 1997

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DATED: 08-03-2007

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Between:

M/s. Unichem Laboratories Limited,
Unichem Bhawan, S.V. Road, Jogeswari
(West), Bombay, represented by its Power
of Attorney Holder Mr. P.V. Rama Rao.

.. Petitioner

and

The Authority under A.P. Shops &
Establishments Act, 1988, and Asst.
Commissioner of Labour, Hyderabad-III and
others.

.. Respondents

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.20344 OF 1997

ORDER:

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This writ petition is filed being aggrieved by an order made in S.E.No.22 of 1995 dated 30.06.1997 on the file of the 1st respondent-Authority under Section 48 (1) of A.P. Shops & Establishments Act, 1988 and Assistant Commissioner of Labour, Circle-III, Hyderabad (for short 'Authority').

It appears, the services of the 2nd respondent-employee were terminated with effect from 01.07.1977 by the petitioner management. Aggrieved by the same, he filed an appeal before the Shops and Establishments Authority and the same was allowed by setting aside the termination order, and the petitioner-management was directed to reinstate the employee back into service with full backwages, continuity of service and with all attendant benefits. Aggrieved by the same, the petitioner-management carried the matter in Second Appeal, but the same was dismissed. Though the 2nd respondent was reinstated into service with continuity of service, the attendant benefits from 01.07.1977 to 30.09.1984 were not paid to him. Therefore, he filed a petition under Section 48 (5) of A.P. Shops and Establishment Act, 1988, before the 1st respondent-Authority for recovery of those attendant benefits. The Authority, after a detailed consideration of the entire material placed before it, came to the conclusion that the 2nd respondent is entitled for the following amounts:-

1)	Daily Allowances	Rs.43,500-00 ps
2)	Encashment of Privilege Leave	Rs. 5,794-50 ps
3)	Deducted Wages	Rs. 7,938-00 ps
4)	A.E.C.D.	Rs. 1,982-80 ps

	Total	Rs.59,215-30 ps

_____ Aggrieved by the same, the petitioner-management filed this writ petition.

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_____ The learned counsel for the petitioner-management strenuously contended that the 2nd respondent is not entitled to daily allowances and encashment of Privilege Leave etc. as claimed by him, since he was not in active service from the date of termination till the date of his reinstatement. The daily allowances are being paid to meet the daily expenditure incurred by an employee subject to a maximum limit prescribed by the organization. Further, it is stated that since he has not attended to duties, the question of encashment of Privilege Leave does not arise. Likewise, in respect of other amounts, the 2nd respondent-employee is not entitled for any such amounts as was granted by the Authority. Therefore, the order under challenge is liable to be set aside.

_____ On the other hand, the learned counsel for the 2nd respondent contended that the daily allowance is not being paid on the basis of day-to-day expenditure incurred by the employee, but it is being paid as a fixed allowance for the days worked by the employee, and for the holidays, it will not be paid. The 2nd respondent is also entitled for encashment of Privilege Leave, deducted wages and other allowances as granted by the Authority.

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_____ I have given my earnest consideration to the respective submissions made by the learned counsel on either side and perused the impugned order and other material available on record.

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_____ In the entire evidence let in by the petitioner-management, nowhere it is either asserted or proved, on the basis of the documents marked, that daily allowances means the allowances payable to an employee on the basis of actual expenditure incurred by him towards traveling expenses etc. On the other hand, the management witness had stated that daily allowance means a fixed allowance payable to an employee for the days he attends to his work and it is not paid on holidays.

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Be that as it may, the whole case is based on the order passed by the Authority under the Shops and Establishment Act, while setting aside the termination order passed by the petitioner management, under which the management was directed to reinstate the employee back into service with full backwages, continuity of service and with all attendant benefits, leaving no ambiguity for any interpretation or scope for denying the daily allowance attached to the post held by the 2nd respondent-employee and the encashment of Privilege Leave etc. Therefore, I am of the opinion that the 1st respondent-Authority has not committed any error in coming to the conclusion that the 2nd respondent-employee is entitled for certain allowances, as per the order passed by the Authority under Shops and Establishments Act while setting aside the termination order passed by the management, calling interference of this Court under Article 226 of the Constitution of India. The writ petition is devoid of merits and liable to be dismissed.

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Accordingly, the writ petition is dismissed. No costs.

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C.V. RAMULU, J

8th March, 2007.
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